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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

MARK MCMILLIAN;	:	
	:	TRENTON VICINAGE
Plaintiff,	:	
	:	CIVIL ACTION NO.:
vs.	:	Civil Action
	:	
UNITED STATES OF AMERICA;	:	<b>COMPLAINT, DEMAND FOR JURY</b>
UNITED STATES POSTAL SERVICE;	:	<b>TRIAL, AND DESIGNATION OF</b>
HERMAN BARON;	:	<b>TRIAL COUNSEL</b>
JOHN DOE I-V; JANE DOE I-V;	:	
ABC, Inc., fictitious names;	:	
	:	
Defendants.	:	

Plaintiff, MARK MCMILLIAN, residing at 1740 Raleigh Court, Apt. #108A, in the Township of Ocean, County of Monmouth, in the State of New Jersey, complaining of the defendants, hereby says:

**THE PARTIES, JURISDICTION AND VENUE**

1. The Plaintiff, MARK MCMILLIAN resides at 1740 Raleigh Court, Apt. #108A, in the Township of Ocean, County of Monmouth and State of New Jersey.
2. The Defendant, United States of America, through its designated agency, the United States Postal Service ("USPS") owned a postal truck bearing License Plate number 3308759, VIN # 1GBCS10A0P2916718, that was involved in a motor vehicle accident on October 29, 2017.
3. Upon information and belief, defendant HERMAN BARON, was an agent

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Employee, and/or servant of the Defendant, United States of America, who resided at 47 Cornell Drive, Hazlet, New Jersey, at the time of the subject motor vehicle accident and upon information and belief was a permissive user and driver of the aforementioned postal truck owned by Defendant, United States of America and/or its designated agency, the United States Postal Service.

4. This action is brought pursuant to the negligent acts of Defendants herein. Jurisdiction is based upon 28 U.S.C. Section 1346(d), commonly known as the Federal Tort Claims Act, wherein, exclusive jurisdiction is granted for all civil actions on claims against the United States for money damages due to personal injury caused by the negligence of any employee or agent of the Government.

5. Venue is laid in this judicial district pursuant to 28 U.S.C. Section 1391(a).

### **CAUSE OF ACTION**

#### **COUNT ONE**

6. On or about October 29, 2017, the plaintiff, MARK MCMILLIAN was traveling west on Asbury Avenue at or near the intersection of Whitesville Road, in the Township of Neptune, County of Monmouth, State of New Jersey.

7. At the same time and place, defendant, HERMAN BARON was the operator of a postal truck owned by defendant, United States of America and or its designated agency, the Unites States Postal Service.

8. At the same time and place, the defendant, HERMAN BARON, struck the plaintiff's vehicle in the rear causing a collision to occur with plaintiff's vehicle and causing plaintiff to sustain personal injuries.

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9. Upon information and belief, defendant, HERMAN BARON, was an agent, employee, servant or permissive user of the aforementioned postal trucked owned by defendant, United States of American and/or its designated agency, the United States Postal Service.

10. Defendant, United States of America through its designated agency, the United States Postal Service is vicariously liable for the acts of their agent, employees, servants or permissive users.

11. The defendant, United States of America and its agent, employee, servant and/or permissive user HERMAN BARON, were negligent in the operation, maintenance, ownership and/or control of the aforementioned postal truck so as to cause a collision to occur causing plaintiff to sustain severe bodily injuries to his left knee and back, including but not limited to a significant tear of the lateral meniscus of the left knee and lumbar disc bulge at L4-L5.

12. As a direct and proximate result of the negligence of the defendant, United States of America and its agent, employee, servant and/or permissive user, HERMAN BARON, in the operation, control, ownership and/or maintenance of their postal truck, the plaintiff sustained severe and diverse personal injuries for which he has incurred and will continue to incur medical expenses; loss of income; pain and suffering, discomfort, inconvenience, emotional distress, disabilities and restrictions on his normal daily activities; loss of quality and enjoyment of life's pleasures, and such further damages as will be proven at the time of trial.

13. In accordance with the requirements of the law, a Standard form 95 Claim for Damage, Injury or Death, was filed on behalf of the plaintiff in this matter in

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a timely fashion on November 15, 2017 and the defendant United States of American through its designated agency, the United States Postal Services has failed to act on the Claim.

WHEREFORE, plaintiff, MARK MCMILLIAN demands judgment against the defendants, for damages, jointly and severally, interest, attorney's fees and costs of suit.

#### **SECOND COUNT**

14. Plaintiff hereby repeats and realleges the allegations of the First Count of the Complaint as though the same were fully set forth herein at length.

15. The defendant, John Doe and ABC, Inc., are fictitious names intended to identify any and all parties, and/or other entities whose identities are presently unknown to the plaintiff, who together with the named defendants herein, were responsible for, or in any way, caused or contributed to plaintiff's injuries.

16. As a direct and proximate result of the negligence of the defendants as aforesaid, the plaintiff has suffered serious and permanent personal injuries; have suffered and will in the future suffer great pain; has been and will in the future be forced to expend large sums of money for medical care and attention; have lost and will in the future lose large sums of money for wages; and have been and will in the future be unable to attend to her usual pursuits and occupation.

WHEREFORE, plaintiff, MARK MCMILLIAN, demand judgment against the defendants, jointly, severally or, in the alternative, for damages, interest, costs of suit, attorney's fees and such other and further relief as this Court may deem equitable and just.

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**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that the plaintiff hereby demands a trial by jury as to all issues raised by the within matter.

**DESIGNATION OF TRIAL COUNSEL**

PURSUANT to R. 4:25-4, notice is hereby given that Charles M. Crocco, Esq., is designated as trial counsel for and on behalf of the plaintiff in the within matter.

**CERTIFICATION**

PURSUANT to Court Rule, I hereby certify that the matter in controversy is not the subject of any other action or arbitration proceeding filed by the plaintiff, either now or contemplated.

NELSON, FROMER, CROCCO & JORDAN  
Attorneys for Plaintiffs

By: \_\_\_\_\_

Charles M. Crocco, Esq.

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Dated: February 1, 2019